

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 07-3260

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HAROLD C. WILSON,

Appellant,

v.

CITY OF PHILADELPHIA; RONALD D. CASTILLE; LYNNE ABRAHAM;  
JOHN JACK MCMAHON; and JANE AND JOHN DOE Employees of the City of  
Philadelphia, Individually and in their Official Capacities,

Appellees.

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Appeal from the Order of the United States District Court  
for the Eastern District of Pennsylvania  
(No. 04-cv-5396)

District Judge: Honorable Thomas N. O'Neill

Argued: Thursday, November 20, 2008

Before: FUENTES, HARDIMAN, and GARTH, Circuit Judges.

(Opinion Filed: February 6, 2009)

Paul Ellis, Jr. (Argued)  
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Counsel for Appellant

Kelly S. Diffily (Argued)  
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Philadelphia, PA 19102-0000

Ronald Eisenberg (Argued)  
Office of the District Attorney  
Three South Penn Square  
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Counsel for Appellees

FUENTES, Circuit Judge:

On June 1, 2007, Appellant Harold Wilson moved to reopen a civil rights case he had filed against prosecutors in the Philadelphia District Attorney's Office. Wilson's case had been dismissed for failure to prosecute, without prejudice, more than a year earlier. In his efforts to reopen the case, Wilson presented the District Court with evidence indicating that his attorney was entirely at fault for the failure to prosecute, and that Wilson himself had been deceived by the attorney into thinking the case was progressing in an appropriate manner. On June 29, 2007, the District Court denied the motion to reopen, and this appeal followed shortly thereafter. As pointed out by the Appellees, at the time Wilson filed his motion to reopen, the statute of limitations had not yet run on many of Wilson's claims.

In view of the unusual posture of this case, we will vacate and remand for further consideration of this matter in light of Dunbar v. Triangle Lumber and Supply Co., 816 F.2d 126 (3d Cir. 1987), as well as the recent Supreme Court decision Van De Kamp v. Goldstein, No. 07-854, — U.S. —, 2009 WL 160430 (Jan. 26, 2009).